

1 ADAM PAUL LAXALT
Attorney General
2 GERRI LYNN HARDCASTLE, Bar No. 13142
Deputy Attorney General
3 Bureau of Litigation
Public Safety Division
4 100 N. Carson Street
Carson City, NV 89701-4717
5 Tel: 775-684-1134
Email: ghardcastle@ag.nv.gov

6 *Attorneys for Defendants Romeo Aranas,*
7 *Renee Baker, Gloria Carpenter, John Fischer,*
8 *and Michael Koehn*

9 UNITED STATES DISTRICT COURT
10 DISTRICT OF NEVADA

11 INGINIO HERNANDEZ,

12 Plaintiff,

13 v.

14 ROMEO ARANAS, et al.

15 Defendants.

Case No. 3:16-cv-00606-MMD-CBC

**DEFENDANTS MOTION FOR
ENLARGEMENT OF TIME TO FILE
MOTION FOR SUMMARY JUDGMENT
(Second Request)**

16
17 Defendants Romeo Aranas, Renee Baker, Gloria Carpenter, John Fischer, and Michael Koehn, by
18 and through counsel, Adam Paul Laxalt, Attorney General of the State of Nevada, and Gerri Lynn
19 Hardcastle, Deputy Attorney General, hereby move this honorable Court for an enlargement of time to file
20 their motion for summary judgment. This motion is made and based on Fed. R. Civ. P. 6(b)(1), the
21 following memorandum of points and authorities, and all pleadings and papers on file herein.

22 **MEMORANDUM OF POINTS AND AUTHORITIES**

23 **I. RELEVANT PROCEDURAL HISTORY**

24 This case is a *pro se* inmate civil rights action pursuant to 42 U.S.C. § 1983. ECF No. 8. Plaintiff,
25 Inginio Hernandez (Plaintiff), is an inmate in the lawful custody of the Nevada Department of Corrections
26 (NDOC). *Id.* at 1. He alleges that Defendants, Romeo Aranas, Renee Baker, Gloria Carpenter, John
27 Fischer, and Michael Koehn (collectively, Defendants), violated his right to be free from cruel and
28 unusual punishment under the Eighth Amendment to the U.S. Constitution. ECF No. 7 at 8.

Specifically, Plaintiff claims that Defendants were deliberately indifferent to his serious medical needs.
Id.

On September 4, 2018, Defendants filed their Motion for Enlargement of Time to File Motion for Summary Judgment. ECF No. 42. This Honorable Court granted Defendants' motion and allowed them up to and including Friday, November 2, 2018, to file a motion for summary judgment. ECF No. 43. Defendants and their counsel have diligently sought to comply with the extended deadline. However, their counsel was unfortunately out of the jurisdiction on annual leave from October 26, 2018 until November 2, 2018, at 1:00 a.m. Due to counsel's absence, Defendants need a short enlargement of time to complete their motion for summary judgment. Therefore, Defendants respectfully request that this Honorable Court allow them up to and including Monday, November 5, 2018, to file their dispositive motion.

II. LEGAL STANDARD

District courts have inherent power to control their dockets. *Hamilton Copper & Steel Corp. v. Primary Steel, Inc.*, 898 F.2d 1428, 1429 (9th Cir. 1990); *Oliva v. Sullivan*, 958 F.2d 272, 273 (9th Cir. 1992). Fed. R. Civ. P. 6(b)(1) governs enlargements of time and provides as follows:

When an act may or must be done within a specified time, the court may, for good cause, extend the time: (A) with or without motion or notice if the court acts, or if a request is made, before the original time or its extension expires; or (B) on motion made after the time has expired if the party failed to act because of excusable neglect.

"The proper procedure, when additional time for any purpose is needed, is to present to the Court a timely request for an extension before the time fixed has expired (*i.e.*, a request presented before the time then fixed for the purpose in question has expired)." *Canup v. Miss. Valley Barge Line Co.*, 31 F.R.D. 282, 283 (D.Pa. 1962). The *Canup* Court explained that "the practicalities of life" (such as an attorney's "conflicting professional engagements" or personal commitments such as vacations, family activities, illnesses, or death) often necessitate an enlargement of time to comply with a court deadline. *Id.* Extensions of time "usually are granted upon a showing of good cause, if timely made." *Creedon v. Taubman*, 8 F.R.D. 268, 269 (D.Ohio 1947). The good cause standard considers a party's diligence in seeking the continuance or extension. *See, e.g., Johnson v. Mammoth Recreations, Inc.*, 975 F.2d 604, 609 (9th Cir. 1992).

1 **III. DISCUSSION**

2 Here, Defendants request that this Court again enlarge their time to submit a motion for summary
3 judgment and allow them up to and including Monday, November 5, 2018, to file their motion. This
4 enlargement of time is necessitated by counsel's unfortunate but necessary absence from the jurisdiction
5 from October 26, 2018 until November 2, 2018. Defendants and their counsel worked diligently to
6 comply with this Court's November 2, 2018 deadline, but counsel's absence prevents them from doing
7 so. Accordingly, Defendants assert that they have demonstrated good cause for a second enlargement of
8 time. Moreover, the requested enlargement is relatively short. Therefore, it should not unfairly
9 prejudice Plaintiff or significantly delay these proceedings.

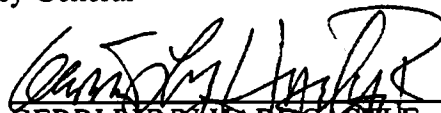
10 **IV. CONCLUSION**

11 Defendants assert that they have demonstrated good cause for this Court to enlarge the time for
12 them to file their motion for summary judgment. Thus, Defendants respectfully request that this
13 Honorable Court grant the instant motion for enlargement of time and allow them up to and including
14 November 5, 2018, to file their dispositive motion.

15 DATED this 2nd day of November, 2018.

16 ADAM PAUL LAXALT
17 Attorney General

18 By:


19 GERRI LYN HARDCASTLE
20 Deputy Attorney General
21 State of Nevada
22 Bureau of Litigation
23 Public Safety Division

24 *Attorneys for Defendants*

25 *No further extensions of time*
26 *shall be granted.*

27 **IT IS SO ORDERED**


28 
U.S. MAGISTRATE JUDGE

DATED: 11/5/2018

1 **CERTIFICATE OF SERVICE**

2 I certify that I am an employee of the Office of the Attorney General, State of Nevada, and that
3 on this 2nd day of November, 2018, I caused to be served a copy of the foregoing, **DEFENDANTS**
4 **MOTION FOR ENLARGEMENT OF TIME TO FILE MOTION FOR SUMMARY**
5 **JUDGMENT (Second Request)**, by U.S. District Court CM/CFE Electronic Filing to:

6 Inginio Hernandez #59072
7 Care of LCC Law Librarian
8 Lovelock Correctional Center
9 1200 Prison Road
10 Lovelock, NV 89419
11 lcclawlibrary@doc.nv.gov

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13 An employee of the
14 Office of the Attorney General
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